

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 512 PERMIT 358 LICENSE 441

**ORDER CORRECTING PLACE OF USE, REDUCING AMOUNT OF DIVERSION
AND AMENDING LICENSE**

WHEREAS:

1. License 441 was initially issued to the Scott Valley Irrigation District (SVID) on December 30, 1925 and was recorded with the County Recorder of Siskiyou County on January 28, 1926.
2. A field inspection was made of the service area for SVID by the State Water Resources Control Board (Board) on July 19, 1985 which revealed the acreage within the place of use and the duty of water should be reduced accordingly.
3. The representatives from SVID agreed to reduce the amount of acreage within the service area and the duty of water diverted from Scott River following the Board's 15 day certified letter dated May 28, 1986.
4. The Board has determined that said corrections will not initiate a new right nor operate to the injury of any other lawful user and that good and sufficient cause has been shown for said corrections.
5. The license condition pertaining to the continuing authority of the Board does not conform to the current common law public trust doctrine as contained in Title 23, California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The reduction of acreage within the service area for the Scott Valley Irrigation district shall be corrected from 5,131.3 to 3,475 acres to read as follows: Section 19, T43N, R8W, MDB&M; Sections 2, 11, 12, 13, 14, 23, 24, 25, 26, 35, and 36 T43N, R9W, MDB&M; Sections 2, 11, 12, 13, 14, 23, 24, and 26, T42N, R9W, MDB&M: as shown on a map on file with the State Water Resources Control Board.
2. The reduction in the duty of water from Scott River shall be corrected to read as follows: The amount of water diverted for beneficial use will be limited to 43 cubic feet per second.

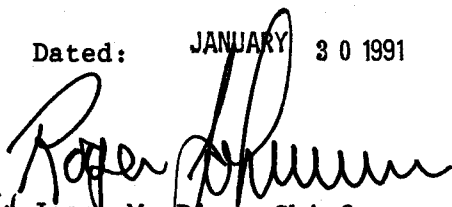
3. The continuing authority condition in License 441 be amended to read as follows: Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

Dated: JANUARY 30 1991


for Jesse M. Diaz, Chief
Division of Water Quality
and Water Rights



STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RIGHTS

License for Diversion and Use of Water

LICENSE No. 441

PERMIT No. 358

APPLICATION No. 512

This is to Certify, That **Scott Valley Irrigation District of**
Port Jones, California, has made proof to the satisfaction of the Division
of Water Rights of California of a right to the use of the waters of **Scott River, in Siskiyou County**

tributary of **Klamath River**

for the purpose of **agricultural use**
under Permit No. **358** of the Division of Water Rights and that said right to the use of said waters has
been perfected in accordance with the laws of California, the rules and regulations of the Division of Water Rights
and the terms of the said permit; that the priority of the right herein confirmed dates from **November 2, 1916;**

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is
limited to the amount actually beneficially used for said purposes and shall not exceed **sixty-two and fifty**
hundredths (62.50) cubic feet per second. Diversions under this license, which
are to be directly applied to irrigation use without storage, shall not exceed
the rate of one cubic foot per second continuous flow to each eighty acres of ir-
rigated land; provided however, that in case of rotation the equivalent of such
continuous flow allowance for any thirty day period may be diverted in a shorter
time if there be no interference with other vested rights.

The point of diversion of such water is located **South eighty degrees forty minutes West**
(S. 80° 40' W) eighteen-hundred sixty-six (1866) feet from the Northeast corner
of Section 2, T 41 N, R 9 W, M.D.M., being within the NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of said Section 2.

A description of the lands or the place where such water is put to beneficial use is as follows:

5131.3 acres located within Scott Valley Irrigation District, as outlined and
shown on a map of the Scott Valley Irrigation District on file with the Divi-
sion of Water Rights.

The right to the diversion and use of the water aforesaid hereby confirmed is restricted to the point of
diversion herein specified and to the lands or place of use herein described.

This license is granted and said appropriator takes all rights herein mentioned subject to the terms and conditions set forth in Section 20 of Chapter 586, Statutes 1913, which is as follows:

Sec. 20. All permits and licenses for the appropriation of water shall be under the terms and conditions of this act, and shall be effective for such time as the water actually appropriated under such permits and licenses shall actually be used for the useful and beneficial purpose for which said water was appropriated, but no longer; and every such permit or license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this section and likewise the statement that any appropriator of water, to whom said permit or license may be issued, shall take the same subject to such conditions as therein expressed; *provided*, that if, at any time after the expiration of twenty years after the granting of a license, the state, or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the state shall have the right to purchase the works and property occupied and used under said license and the works built or constructed for the enjoyment of the rights granted under said license; and in the event that the said state, city, city and county, municipal water district, irrigation district, lighting district or political subdivision of the state so desiring to purchase and the said owner of said works and property can not agree upon said purchase price, said price shall be determined in such manner as is now or may hereafter be determined in eminent domain proceedings. If it shall appear to the state water commission at any time after a permit or license is issued as in this act provided that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee, has not put the water granted under said permit or license to the useful or beneficial purpose for which the permit or license was granted, or that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee, has ceased to put said water to such useful or beneficial purpose, or that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee has failed to observe any of the terms and conditions in the permit or license as issued, then and in that case the said commission, after due notice to the permittee, licensee, or the heirs, successors or assigns of such permittee or licensee, and a hearing thereon, may revoke said permit or license, and declare the water to be unappropriated and open to further appropriation in accordance with the terms of this act. And the findings and declaration of said commission shall be deemed to be prima facie correct until modified or set aside by a court of competent jurisdiction; *provided*, that any action brought so to modify or set aside such finding or declaration must be commenced within thirty days after the service of notice of said revocation on said permittee or licensee, his heirs, successors or assigns. And every licensee or permittee under the provisions of this act if he accept such permit or license shall accept the same under the conditions precedent that no value whatsoever in excess of the actual amount paid to the state therefor shall at any time be assigned to or claimed for any permit or license granted or issued under the provisions of this act, or for any rights granted or acquired under the provisions of this act, in respect to the regulations by any competent public authority of the services or the price of the services to be rendered by any permittee or licensee, his heirs, successors or assigns or by the holder of any rights granted or acquired under the provisions of this act, or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the state or any city, city and county, municipal water district, irrigation district, lighting district or any political subdivision of the state, of the rights and property of any permittee or licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this act. The application for a permit by municipalities for the use of water for said municipalities or the inhabitants thereof for domestic purposes shall be considered first in right, irrespective of whether they are first in time; *provided, however*, that such application for a permit or the granting thereafter of permission to any municipality to appropriate waters, shall not authorize the appropriation of any water for other than municipal purposes; and *providing*, further, that where permission to appropriate is granted by the state water commission to any municipality for any quantity of water in excess of the existing municipal needs thereof, that pending the application of the entire appropriation permitted, the state water commission shall have the power to issue permits for the temporary appropriation of the excess of such permitted appropriation over and above the quantity being applied from time to time by such municipality; and *providing, further*, that in lieu of the granting of such temporary permits for appropriation, the state water commission may authorize such municipality to become as to such surplus a public utility, subject to the jurisdiction and control of the railroad commission of the State of California for such period or periods from and after the date of the issuance of such permission to appropriate, as may be allowed for the application to municipal uses of the entire appropriation permitted; and *provided, further*, that when such municipality shall desire to use the additional water granted in its said application it may do so upon making just compensation for the facilities for taking, conveying and storing such additional water rendered valueless for said purposes, to the person, firm or corporation which constructed said facilities for the temporary use of said excess waters, and which compensation, if not agreed upon between the municipality and said person, firm or corporation, may be determined in the manner provided by law for determining the value of property taken by and through eminent domain proceedings.

Witness the signature of the Chief of the Division of
WATER RIGHTS, Department of Public Works of the
State of California, and the seal of said department
this 30th day of December, 1925.

[Signature]
Chief of Division of Water Rights, Department
of Public Works of the State of California



LICENSE NO. _____

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS

DIVISION OF WATER RIGHTS

LICENSE
TO APPROPRIATE WATER

ISSUED TO _____

DATED _____

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